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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------------|------------------|
| 10/812,095 | 03/30/2004 | Masashi Kitabayashi | 110859.01 | 3098 |
| 25944 | 7590 | 07/13/2005 | | |
| OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320 | | | EXAMINER MERLINO, AMANDA H | |
| | | | ART UNIT 2877 | PAPER NUMBER |

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|-------------------------------|--------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/812,095 | KITABAYASHI ET AL. |
| | Examiner Amanda H. Merlino | Art Unit 2877 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 April 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 4-6 is/are rejected.
- 7) Claim(s) 2,3 and 7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's own admission of prior art in view of Ooi et al (4,554,587).

Applicant's own admission of prior art on line 29 of page 1 thru line 4 of page 2 of the specification show of a lens' evolution apparatus comprising: an evaluation sheet with a test pattern wherein light is irradiation from a light source onto the test pattern to the lens, the image light is then projected on a screen and is detected by an image import device using an image sensor. The image is image-processed by a computer to evaluation the lens.

Applicant's own admission of prior art does not teach of the image sensor having a light adjuster.

Ooi et al (4,554,587) teach of an image sensor with a light adjuster.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to provide a light adjuster such as a diaphragm as taught by Ooi et al for the image sensor taught by Kitabayashi et al to adjust the amount of light incident on the image sensor to obtain good image quality as specifically taught by Ooi et al.

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Claim 4-6 rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's own admission of prior art in view of Ooi et al as applied to claim 1 above, and further in view of Sprague (3,988,068).

Applicant's own admission of prior art does not teach of a peripheral photo detector.

Sprague et al teach of a peripheral photo detector.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to implement a peripheral photo detector as taught by Sprague et al in order to test the peripheral portions of the lens in order to detect defects of the peripheral portions of the lens which would provide a more accurate and versatile apparatus by providing information on the center of the lens and the outer peripheral of the lens.

Terminal Disclaimer

The terminal disclaimer filed on 4/29/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,760,097 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

Applicant's arguments filed 4/29/05 have been fully considered but they are not persuasive.

Firstly, applicant argues that examiner's use of applicant's own admission of prior art (AAPA) is improper. Applicant states that the specification discloses "related art" and not "prior art". Examiner respectfully disagrees since on line 18 of page 1 of the

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specifically (under the heading related art), it specifically states "conventionally..." which one would assume that it is referring to prior art. Furthermore, when one is referring to related art, it may also be interpreted as "prior art".

Secondly, applicant argues that Ooi does not compensate for the deficiencies of the AAPA. Examiner respectfully disagrees. Ooi teaches of a diaphragm (14) (cool 3; lines 1-18) wherein the amount of intensity of light onto the surface of the pickup tube is adjusted to obtain a good image quality.

Thirdly, applicant argues that Sprague does not teach of a distortion aberration calculation. Examiner uses the teachings of Spargue to show the use of a peripheral image sensor and not the distortion aberration calculator. The distortion aberration calculator is taught by AAPA since it teaches that an image processor process the information to calculate the distortion.

Allowable Subject Matter

Claims 2-3 and 7 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claims 2-3, the prior of record, taken alone or in combination, fails to disclose or render obvious a lens evaluating apparatus comprising a resolution evaluation value calculator that arithmetically operates the resolution evaluation value based on a background luminance value of a part of the check sheet having no test pattern formed thereon, a maximum luminance value and a minimum luminance value in the test pattern image, in combination with the rest of the limitations of claim 1.

As to claim 7, the prior of record, taken alone or in combination, fails to disclose or render obvious a lens evaluating apparatus comprising a resolution evaluation value calculator that arithmetically operates an input level value based on a background luminance, a maximum luminance value and a minimum luminance value in the test pattern image, in combination with the rest of the limitations of claim 1.

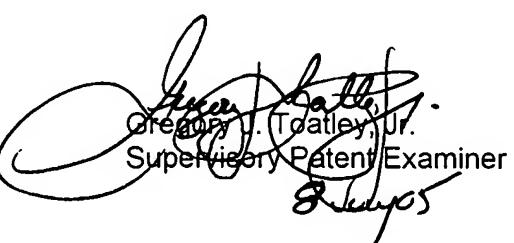
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda H. Merlino whose telephone number is 571-272-2421. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on 571-272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda H Merlino *ah*
Patent Examiner
Art Unit 2877
July 7, 2005



Gregory J. Toatley, Jr.
Supervisory Patent Examiner
Brayos